

United States
Circuit Court of Appeals

For the Ninth Circuit. 7

LUTHER WEEDIN, as Commissioner of Immigration at the Port of Seattle, Washington, for the United States Government,
Appellant,

vs.

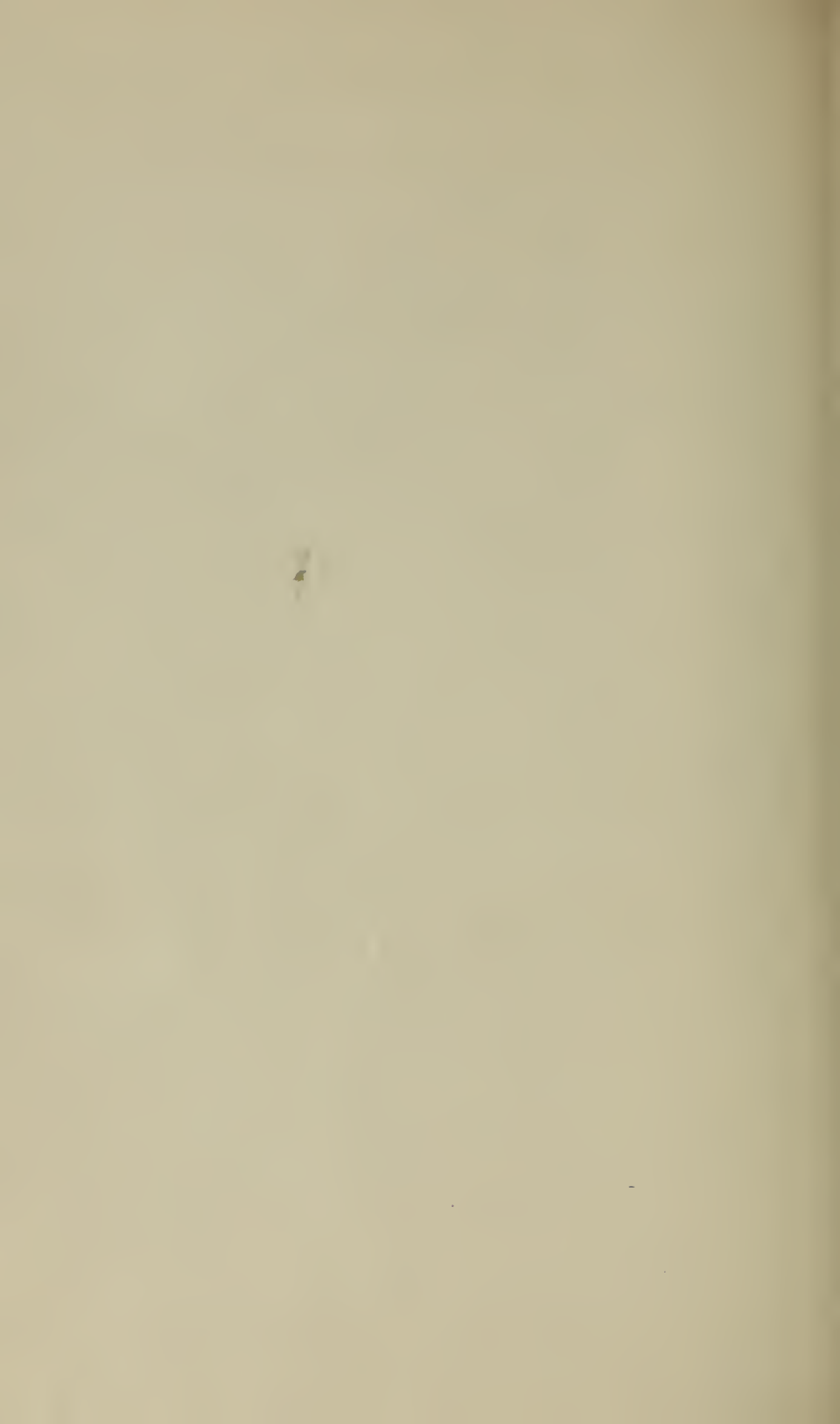
MON HIN,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

FILED
NOV 9 1924
F. D. MENDOTA
CLERK



United States
Circuit Court of Appeals
For the Ninth Circuit.

LUTHER WEEDIN, as Commissioner of Immigration at the Port of Seattle, Washington, for the United States Government,
Appellant,

vs.

MON HIN,

Appellee.

Transcript of Record.

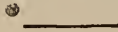
Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF COUNSEL.

THOMAS P. REVELLE, Esq., 310 Federal Building,
Seattle, Washington,
Attorney for Appellant.

DONALD G. GRAHAM, Esq., 310 Federal Building,
Seattle, Washington,
Attorney for Appellant.

JAMES KIEFER, Esq., 327 Colman Building,
Seattle, Washington,
Attorney for Appellee. [1*]

In the United States District Court for the Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a Writ of Habeas Corpus.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable the Judges of the Above-entitled Court:

The petition of Mon Hin respectfully represents:

I.

That he is the stepson of Li Sing, a Chinese citizen of the United States born therein, and residing at Fernandina, Florida, that your petitioner arrived at the port of Seattle on the SS. "President Madison," and upon arrival was examined, and

*Page-number appearing at foot of page of original certified Transcript of Record.

testimony has since been taken in Fernandina, Florida, showing that petitioner's mother, Wong See, is residing at Ferdandina, Florida, with Li Sing, and your petitioner is the minor son of Wong See.

II.

That Li Sing is a merchant residing at Ferdandina, Florida, engaged in business in buying, curing and selling fish.

III.

That your petitioner was on July 15, 1924, denied admittance to the United States upon the ground, as your petitioner understands it, that the Board of Special Inquiry held and ruled that Li Sing is not a merchant.

IV.

That your petitioner appealed from the finding and decision [2] of the Board of Special Inquiry to the Secretary of Labor and Commissioner General of Immigration, and upon such appeal the finding of the Board of Special Inquiry was affirmed, and the United States Commissioner of Immigration at the port of Seattle was directed to deport your petitioner, and will unless restrained by the order of this Court, deport your petitioner on August 12, 1924.

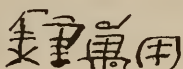
V.

That your petitioner was denied a fair and impartial hearing in this, that all the evidence taken shows without dispute that your petitioner's stepfather, Li Sing, is a merchant, and that he is a native-born citizen of the United States, and that

your petitioner is his minor stepson, and the only point disputed by the Board of Special Inquiry and Secretary is that Li Sing, your petitioner's stepfather, is not a merchant.

WHEREFORE, your petitioner prays that a writ of habeas corpus may be issued herein, and that upon the hearing of such writ it may be adjudged and decreed that your petitioner is entitled to enter the United States; and that he be discharged from the custody of the Immigration Commissioner at the port of Seattle.

Chinese Signature:



MON HIN,

Petitioner.

JAMES KIEFER,

Attorney for Petitioner,

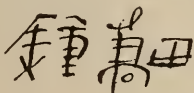
Suite 327 Coleman Bldg.,

Seattle, Washington.

United States of America,
Western District of Washington,
County of King,—ss.

Mon Hin, being sworn according to law, says: That he is the petitioner above named; that he has heard the foregoing petition read and explained, and that the facts therein stated are true.

Chinese Signature:



MON HIN.

Subscribed and sworn to before me this 1st day of August, 1924.

JAMER KIEFER,
Notary Public in and for the State of Washington,
Residing at Seattle.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Aug. 4, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [3]

In the United States District Court in and for the
Western District of Washington, Northern
Division.

No. 8717.

In the Matter of the Petition of MON HIN for a
Writ of Habeas Corpus.

ORDER TO SHOW CAUSE.

In this cause, on reading the petition of Mon Hin, it is by the Court ORDERED and CONSIDERED, that Luther Weedin, United States Commissioner of Immigration at the port of Seattle, do show cause before this Court on the 12th day of August, 1924, at ten o'clock A. M., at the Federal Court House in the city of Seattle, why a writ of habeas corpus should not issue, as prayed for in said petition.

Dated August 4th, 1924.

JEREMIAH NETERER,
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Aug. 4, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

RETURN ON SERVICE OF WRIT.

United States of America,
Western District of Washington,—ss.

I hereby certify and return that I served the annexed order to show cause on the therein named Luther Weedin, United States Commissioner of Immigration, by handing to and leaving a true and correct copy thereof with him, personally, at Seattle, in said district, on the 4th day of Aug., A. D. 1924.

E. B. BENN,

U. S. Marshal.

By E. E. Gaskill,

Deputy. [4]

In the United States District Court in and for the
Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN, for
Writ of Habeas Corpus.

POINTS AND AUTHORITIES ON BEHALF
OF PETITIONER.

An inspection of the record return as a part of

this case shows that the rejection was based upon just one thing, namely, that Li Sing, the stepfather of the petitioner, is not a merchant. The relationship appears from the record to be conceded, and it is conceded that under the law if Li Sing is a merchant, he is entitled to bring in his stepson, a member of his family. The sole ground for refusal to admit is that Li Sing, the stepfather, is a laborer and not a merchant. This reduces the question before the Court to a narrow compass.

It appears from the record that Li Sing, or as his name appears in some places Jung Li Sing, is a resident of Fernandina, Florida; is a native-born citizen of the United States, and in 1921, obtained a certificate of identity No. 37218, visited China, and returned as a citizen. His wife, the mother of the petitioner, was admitted, together with her husband, Li Sing, in October, 1921, at Seattle. Li Sing's admission was as a native.

It is shown by the testimony of Li Sing on the 2d page that he has been for three years past buying, drying and exporting to China and Canada shark fins, terrapin, etc. He has invested in the business \$2,000.00; they did a business of \$3,000.00 during the past year. The testimony of Frank F. Miller, F. H. Gorinflo, R. G. Lohman [5] and E. Mezell all corroborate this. It is true that he has not obtained a certificate as a merchant, but being a native-born citizen, that is unnecessary. There is no dispute as to the fact.

The fact that Li Sing in large part personally performs the labor of curing and drying and pack-

ing and shipping the fish in nowise detracts from his status as a merchant. Neither does the fact that he may occasionally assist his wife for an hour or so in the work of the laundry. The statute, as construed by the courts, defines a merchant as one whose principal business is buying and selling, and permits the performance of such manual labor as is incident to the business. Neither is it reasonable to require a man to allow an investment to be lost for want of a little personal attention.

It appears that Li Sing owns the laundry and his wife operates it, and that he occasionally and casually assists her for an hour at a time. Certainly a merchant who has outside interests may give them such attention as he can, even if it costs a small amount of labor.

In some of the cases the Courts appear to lay stress upon the fact of working for wages. In case of *Ow Yang Dean vs. U. S.*, 145 Fed. 801, is very similar to the one under consideration. The facts in that case were that the applicant for admission on his return to the United States, after a visit to China, owned an interest in a fishing company as well as an interest in other concededly mercantile firms. The evidence showed that during the year prior to his departure from the United States the applicant who was seeking to enter was occasionally engaged in picking shrimp, picking crabs, and delivering goods, but most of his time he was engaged in keeping the books of the shrimp company, and that occasionally he picked shrimp after they were brought to the store, and delivered rush orders

of goods, and now [6] and then cracked and picked crabs in the store in connection with the business of the shrimp company in buying and selling goods of that nature.

It was held by the Circuit Court of Appeals for the Ninth Circuit that the manual labor performed by the Chinaman was only such as was incidental to the business in which he was financially interested, and did not deprive him of his status as a merchant.

A reading of that case will disclose that the facts are closely parallel to those in the case under consideration. The criterion seems to be, is the alleged merchant engaged in buying and selling goods. In the case at bar, nobody disputes that. Not a single witness testified in contradiction to the testimony of Li Sing, and it appears from the testimony of a white man, E. Mezell, a bank president, that he carries a substantial bank account.

The case of *Tom Hong et al. vs. U. S.*, 193 U. S. 517, 48 L. Ed. 772, is much in point.

In *Ong Chew Long vs. Burnett*, 232 Fed. 853, the rule is laid down that the test is the buying and selling of goods and it is this that establishes the status of a merchant.

See also *Lew Toy vs. U. S.*, 242 Fed. 405.

Lew Sing Chang vs. U. S., 222 Fed. 195.

Lee Kahn vs. U. S., 62 Fed. 914.

Palmero vs. Tod, 296 Fed. 345

(C. C. A.)

Woo Hoo vs. White, 243 Fed. 541.

It is difficult to understand how the Board of Special Inquiry and the Secretary made the finding that Li Sing is not a merchant. This conclusion can only be reached by ignoring all the testimony in the case. There is not a scintilla of evidence to support the finding that he is not a merchant.

The effect of the marriage of Li Sing to the petitioner's [7] mother, and the taking of the petitioner into Li Sing's family, and Li Sing providing for him, is that Li Sing has adopted the petitioner under the Chinese law as well as under the common law. He is to be treated as the adopted son of a citizen, and upon that ground is entitled to admission.

It is respectfully submitted that the writ should be granted and the petitioner admitted to the United States and set at liberty.

JAMES KIEFER,
Attorney for Petitioner.

Received copy of the foregoing points and authorities on behalf of petitioner this 8th day of August, 1924.

THOS. P. REVELLE,
MM.
U. S. District Attorney.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Aug. 8, 1924. F. M. Harshberger. Clerk. By S. E. Leitch, Deputy. [8]

In the United States District Court, Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for Writ of Habeas Corpus.

AUTHORITIES ON BEHALF OF COMMISSIONER OF IMMIGRATION.

White vs. Kwock Sue Lum, 291 Fed. 732.

Yee Won vs. White, 256 U. S. 399.

Low Wah Suey vs. Backus, 225 U. S. 460.

'Comp. Statutes, sec. 4290 et seq. (Chinese Exclusion Act).

THOS. P. REVELLE,

United States Attorney.

DONALD G. GRAHAM,

Assistant United States Attorney.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Aug. 28, 1924. F. M. Harshberger, Clerk. [9]

United States District Court, Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Application of MON HIN for a Writ of Habeas Corpus.

RETURN TO ORDER TO SHOW CAUSE.

To the Honorable JEREMIAH NETERER, Judge
of the District Court of the United States for
the Western District of Washington:

I, Luther Weedin, to whom the annexed writ of habeas corpus is directed have now here before the Court the body of the said Mon Hin therein named as therein commanded, and I hereby certify that I am the United States Commissioner of Immigration at Seattle, Washington; that the said Mon Hin is detained and held by this respondent for deportation from the United States as an alien person not entitled to admission under the laws of the United States and subject to deportation under the laws of the United States; that the said Mon Hin was detained by this respondent at the time he the said Mon Hin arrived in the United States, to wit, the 4th day of June, 1924, as an alien person not entitled to admission under the laws of the United States and subject to deportation under the laws of the United States pending a decision on his application for admission to the United States as being the stepson of a native-born [10] citizen; that at a hearing before the Board of Special Inquiry the said Mon Hin was unable to furnish proof that he was the natural son of a citizen of the United States or that he was the minor child of an alien Chinese citizen of mercantile status or to furnish proof that his stepfather, an American citizen, held a mercantile status, and his appli-

cation for admission to the United States was denied; that the said Mon Hin applied for an appeal from the decision of the Board of Special Inquiry to the Secretary of Labor and thereafter the decision of the Board of Special Inquiry was affirmed by the Secretary of Labor's and the Commissioner of Immigration's Board of Review; that since the final decision of the said Board of Review, respondent has and now holds and detains the said Mon Hin for deportation from the United States as an alien person not entitled to admission under the laws of the United States and subject to deportation under the laws of the United States; that the original records of the Department of Labor, Bureau of Immigration both on the hearing before the Board of Special Inquiry at Seattle, Washington, and on the submission of the records on the appeal to the Secretary of Labor at Washington, D. C., in the matter of the application of Mon Hin for admission to the United States are hereto attached and made a part and parcel of this return as fully and completely as though set forth herein in full.

WHEREFORE, respondent prays that the said Mon Hin be remanded to the custody of the respondent.

LUTHER WEEDIN,
Commissioner of Immigration. [11]

United States of America,
Western District of Washington,
Northern Division,—ss.

Luther Weedin, being first duly sworn, on oath deposes and says: That he is Commissioner of Im-

migration named in the foregoing return; that he has read the said return, knows the contents thereof and believes the same to be true.

LUTHER WEEDIN.

Subscribed and sworn to before me this 28th day of August, 1924.

[Seal]

D. L. YOUNG,

Notary Public in and for the State of Washington,
Residing at Seattle.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Aug. 29, 1924. F. M. Harshberger, Clerk. [11½]

In the United States District Court for the Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a Writ of Habeas Corpus.

DECISION.

Filed September 6, 1924.

JAMES KIEFER, Esq., Attorney for Petitioner.

C. T. McKINNEY, Esq., Asst. U. S. Atty., Attorney for United States.

NETERER, District Judge:

Petitioner seeks admission, alleging that he is the son of a Chinese native of the United States, a merchant at Fernandina, Florida. The nativity

and stepson relation is conceded; also that minor children, natural or adopted, of alien merchants, are admissible. It is objected by the Board of Review that the stepfather, a native citizen (Chinese) although a merchant, will not exempt applicant from admission because such law has relation only to aliens who are merchants. The dual relation of citizen and merchant should not, however, prejudice the petitioner. Birth relates to the stepfather only, while the merchant status reflects the right to the privilege of entry sought.

It is also said that Sec. 2, Exclusion Act as amended, is conclusive against entry since the stepfather is a laborer, being engaged in "drying fish for exportation." He says: "for the past three years I have been buying, drying and exporting to China and Canada shark fins, terrapin, etc." The stepfather has a place of business, regularly exports shark fins, terrapin, etc., has a half interest (\$2,000) in the Mee Jan Company, and is manager, buyer and shipper for the company—did \$3,000 worth of business last year. The company buys the fish, dries it preparatory to export, and ships it. It seems clear from the testimony that the stepfather's business is differentiated from fishing and drying in that the business is buying and exporting; the drying is merely incident to that business. A number of white men living in the community testified in support of the stepfather's contentions. Writ granted.

Cases cited by petitioner:

Ow Yang Dean vs. U. S., 145 Fed. 801.

Tom Hong et al. vs. U. S., 193 U. S. 517, 48
L. Ed. 772.

Ong Chew Long vs. Burnett, 232 Fed. 853.

Lew Toy vs. U. S., 242 Fed. 405.

Lew Sing Chang vs. U. S., 222 Fed. 195.

Lee Kahn vs. U. S., 62 Fed. 914.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 6, 1924. F. M. Harshberger, Clerk. [12]

In the United States District Court in and for the Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a Writ of Habeas Corpus.

ORDER GRANTING WRIT OF HABEAS CORPUS.

In this cause, the petitioner, Mon Hin, having on August 4, 1924, presented his petition for writ of habeas corpus, and the Court having on that day granted an order requiring Luther Weedin, as United States Commissioner of Immigration at the port of Seattle, to show cause why a writ of habeas corpus should not be granted in accordance with the prayer of said petition, and return to said

order to show cause having been made by said Weedin, and the matter having been on August 29, 1924, argued and submitted to the Court and taken under consideration by the Court, and the Court having on September 6, 1924, filed a decision in writing granting said petition, and directing that writ of habeas corpus issue,—

It is by the Court now ordered and considered, and the Court does hereby order and consider, that a writ of habeas corpus do issue to Luther Weedin, as United States Commissioner of Immigration at the port of Seattle, commanding him to produce before this Court the body of the said Mon Hin on the 15th day of September, 1924, at ten o'clock A. M., then and there to do, receive and submit to what the Court shall order in the premises.

Done in open court, September 8, 1924.

JEREMIAH NETERER,

Judge.

Received copy 9/9/24.

DONALD G. GRAHAM,

Asst. U. S. Atty.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 8, 1924. F. M. Harshberger, Clerk. [13]

United States District Court, Western District of
Washington.

No. 8717.

WRIT OF HABEAS CORPUS.

The President of the United States of America to
LUTHER WEEDIN, Commissioner of Immi-
gration, Seattle, Washington, GREETING:

WE COMMAND YOU, that you have the body
of Mon Hin, by you imprisoned and detained, as
it is said, together with the time and cause of such
imprisonment and detention by whatsoever name
said Mon Hin shall be called or charged, before the
Hon. Jeremiah Neterer, United States District
Judge for the Western District of Washington, at
the courtroom of said Court, in the city of Seattle
in the Northern Division of said Western District
of Washington, on the 15th day of September,
A. D. 1924, at 10 o'clock in the forenoon, to do
and receive what shall then and there be considered
concerning him the said Mon Hin.

And have you then and there this writ.

WITNESS the Hon. JEREMIAH NETERER,
Judge of the United States District Court for the
Western District of Washington, this 8th day of
September, in the year of our Lord one thousand
nine hundred and twenty-four.

[Seal]

F. M. HARSHBERGER,

Clerk.

By S. M. H. Cook,

Deputy Clerk.

RETURN ON SERVICE OF WRIT.

United States of America,
Western District of Washington,—ss.

I hereby certify and return that I have served the annexed order on the therein named Luther Weedin by handing to and leaving a true and correct copy thereof with him, personally, at Seattle, in said district, on the 8th day of Sept., A. D. 1924.

E. B. BENN,
U. S. Marshal.

By E. E. Gaskill,
Deputy.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 9, 1924. F. M. Harshberger, Clerk. [14]

United States District Court, Western District of
Washington, Northern Division.

No. 8717.

In the Matter of the Application of MON HIN for
a Writ of Habeas Corpus.

RETURN TO WRIT OF HABEAS CORPUS.

To the Honorable JEREMIAH NETERER, Judge
of the District Court of the United States
for the Western District of Washington:

Comes now Luther Weedin, United States Com-
missioner of Immigration at Seattle, Washington,

and for return to the writ of habeas corpus heretofore served upon him, herewith produces in court the body of Mon Hin, and shows and certifies to this court:

That the statement of facts in the return to the order of show cause, heretofore filed herein, is true and correct, and by reference thereto, is made a part of this return the same as though set forth in full.

WHEREFORE, having made a full and complete return and certificate as to the manner and authority by which the said Mon Hin is held, Luther Weedin, United States Commissioner of Immigration, who makes this return, prays this Court for an order quashing the writ of habeas corpus heretofore entered.

LUTHER WEEDIN,

United States Commissioner of Immigration. [15]

United States of America,
Western District of Washington,
Northern Division,—ss.

John L. Zurbrick, being first duly sworn, on oath deposes and says: That he is Assistant Commissioner of Immigration at Seattle, Washington, and as such makes this verification for and on behalf of Luther Weedin, Commissioner of Immigration at said place; that he has read the foregoing return, knows the contents thereof and that the same is true, as he verily believes.

JOHN L. ZURBRICK.

Subscribed and sworn to before me this 15th day of September, 1924.

[Seal] D. L. YOUNG,
Notary Public in and for the State of Washington,
Residing at Seattle.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 15, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [16]

In the United States District Court in and for the Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN, for a Writ of Habeas Corpus.

ORDER DISCHARGING PETITIONER.

In this cause, the petitioner, Mon Hin, having on August 4, 1924, presented his petition for a writ of habeas corpus, and the Court having on that day granted an order requiring Luther Weedin, as United States Commissioner of Immigration at the port of Seattle, to show cause why a writ of habeas corpus should not be granted in accordance with the prayer of said petition, and return to said order to show cause having been made by said Weedin, and the matter having been on August 29, 1924, argued and submitted to the Court and taken under consideration by the Court, and the Court hav-

ing on September 6, 1924, filed a decision in writing granting said petition, and directing that writ of habeas corpus issue; and,

The Court having on September 8, 1924, made and entered an order herein granting a writ of habeas corpus directed to Luther Weedin, as United States Commissioner of Immigration at the port of Seattle, commanding him to produce before this Court the body of the said Mon Hin on this day, then and there to do, receive and submit to what the Court shall order in the premises, and the said Luther Weedin, as United States Commissioner of Immigration at the port of Seattle as aforesaid, having on this day made return to said writ of habeas corpus and having produced in open court the body of Mon Hin in [17] obedience to said writ, and having shown no other or further cause of detention than heretofore shown in response to the aforesaid order to show cause;

IT IS BY THE COURT ORDERED, CONSIDERED AND ADJUDGED, AND THE COURT DOES HEREBY ORDER, CONSIDER AND ADJUDGE, that the said Mon Hin be, and he is, hereby enlarged and discharged from any further detention or confinement by the said Luther Weedin, as United States Commissioner of Immigration at the port of Seattle as aforesaid, and he, the said Mon Hin, do go hence without day.

Done in open court this 15th day of September, 1924.

JEREMIAH NETERER,
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 15, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [18]

United States District Court, Western District of
Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a
Writ of Habeas Corpus.

PETITION FOR APPEAL.

Luther Weedin, United States Commissioner of Immigration at the port of Seattle, the respondent above named, deeming himself aggrieved by the order and judgment entered herein on the 15th day of September, 1924, does hereby appeal from the said order and judgment to the United States Circuit Court of Appeals for the Ninth Circuit, and prays that a transcript and record of proceedings and papers upon which said order and judgment is made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Judicial District of the United States.

THOS. P. REVELLE,

United States Attorney for the Western District of
Washington,

By DONALD G. GRAHAM,
Assistant United States Attorney,
Attorneys for Appellant.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 15, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [19]

United States District Court, Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a Writ of Habeas Corpus.

NOTICE OF APPEAL.

To Mon Hin, and to James Kiefer, Attorney for Mon Hin:

YOU, AND EACH OF YOU, are hereby notified that Luther Weedin, as United States Commissioner of Immigration at the port of Seattle, respondent above named, hereby and now appeals from that certain order, judgment and decree made herein by the above-entitled court on the 15th day of September, 1924, adjudging, holding, finding and decreeing that the above-named petitioner for writ of habeas corpus, Mon Hin, be discharged from the custody of said United States Commissioner of Immigration and from the whole thereof,

to the United States Circuit Court of Appeals for the Ninth Circuit.

THOS. P. REVELLE,
United States Attorney for the Western District of
Washington,

By DONALD G. GRAHAM,
Assistant United States Attorney,
Attorneys for Luther Weedin, United States Com-
missioner of Immigration for the Port of
Seattle.

[Endorsed]: Filed in the United States District
Court, Western District of Washington, North-
ern Division. Sep. 15, 1924. F. M. Harshberger,
Clerk. By S. E. Leitch, Deputy. [20]

United States District Court, Western District of
Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a
Writ of Habeas Corpus.

ORDER ALLOWING APPEAL AND FIXING
BOND OF PETITIONER.

Now, to wit, on the 15th day of September, 1924,
it is ordered that the appeal be allowed as prayed
for, and

It is further ordered that the petitioner for writ
of habeas corpus may remain at large pending
said appeal, on stipulation of U. S. Attorney upon

executing a recognizance or bond to the United States of America, to the satisfaction of the clerk of the court, in the sum of Seven Hundred Fifty Dollars cash, or \$1000.00 Surety Co. bond *Dollars*, for the appearance of said petitioner to answer the judgment of the Circuit Court of Appeals, if the judgment of the District Court shall be reversed.

Done in open court this 15th day of September, 1924.

JEREMIAH NETERER,

Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 15, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [21]

United States District Court, Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a Writ of Habeas Corpus.

ASSIGNMENTS OF ERROR.

I.

The Court erred in holding and deciding that the petitioner, Mon Hin, did not have a fair and impartial trial before the Inspector of Immigration conducting his hearing.

II.

The Court erred in holding and deciding that a writ of habeas corpus be awarded to the petitioner herein.

III.

The Court erred in holding, deciding and adjudging that the petitioner, Mon Hin, be discharged from the custody of Luther Weedin, as Commissioner of Immigration at the port of Seattle, Washington.

IV.

The Court erred in deciding, holding and adjudging that the petitioner, Mon Hin, was not subject to exclusion and deportation, but was entitled to come in and remain in, the United States.

THOS. P. REVELLE,

United States Attorney.

DONALD G. GRAHAM,

Assistant United States Attorney.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 15, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [22]

United States District Court, Western District of
Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a
Writ of Habeas Corpus.

STIPULATION.

IT IS HEREBY STIPULATED and agreed by and between James Kiefer, attorney for Mon Hin, appellee, and Thos. P. Revelle and Donald G. Graham, United States Attorney and Assistant United States Attorney, respectively, as attorneys for Luther Weedon, Commissioner of Immigration, appellant, that the original file and record of the Department of Labor covering the deportation proceedings against the petitioner, which was filed with the respondent's return in the above-entitled cause may be by the clerk of this court sent up to the clerk of the Circuit Court of Appeals, as part of the appellate record in order that the said original immigration file may be considered by the Circuit Court of Appeals, in lieu of a certified copy of said record and file, and that said original records may be transmitted as part of the appellate record.

THOS. P. REVELLE,
United States Attorney,
DONALD G. GRAHAM,
Assistant United States Attorney,
Attorneys for Appellant.
JAMES KIEFER,
Attorney for Appellee.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 15, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [23]

United States District Court, Western District of
Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a
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ORDER FOR TRANSMISSION OF ORIGINAL
RECORD.

Upon stipulation of counsel, it is by the Court ORDERED, and the Court does hereby ORDER that the clerk of the above-entitled court transmit with the appellate record in said cause the original file and record of the Department of Labor, covering the deportation proceedings against the petitioner, which was filed with the return of the Commissioner of Immigration to the order to show cause, directly to the clerk of the Circuit Court of Appeals for the Ninth Circuit, in order that the said original immigration file may be considered by the Circuit Court of Appeals in lieu of a certified copy of said record.

Done in open court this 2d day of October, 1924.

JEREMIAH NETERER,

United States District Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 2, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [24]

United States District Court, Western District of
Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a
Writ of Habeas Corpus.

PRAECIPE OF APPELLANT FOR TRAN-
SCRIPT OF RECORD ON APPEAL.

To the Clerk of the Above-entitled Court:

You will please prepare and duly authenticate the transcript and following portions of the record in the above-entitled case for appeal of the said appellant, heretofore allowed, to the United States Circuit Court of Appeals for the Ninth Circuit:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Points and authorities on behalf of petitioner.
4. Authorities on behalf of Commissioner of Im-
migration.
5. Return to order to show cause.
6. Decision of Honorable Jeremiah Neterer.
7. Order granting writ of habeas corpus.
8. Writ of habeas corpus.
9. Order discharging petitioner.
10. Petition for appeal.
11. Notice of appeal.
12. Order allowing appeal and fixing bond of pe-
titioner.
13. Assignments of error.
14. Citation.

15. Return to writ of habeas corpus. [25]
16. Stipulation allowing original file and record of the Department of Labor to be sent to the Clerk of the Circuit Court as part of the Appellate Record.
17. Order for transmission of original file and record.
18. This praecipe.

THOS. P. REVELLE,
 United States Attorney,
 DONALD G. GRAHAM,
 Assistant United States Attorney,
 Attorneys for Appellant.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 1, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [26]

In the United States District Court for the Western
 District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a
 Writ of Habeas Corpus.

CERTIFICATE OF CLERK U. S. DISTRICT
 COURT TO TRANSCRIPT OF RECORD
 ON APPEAL.

United States of America,
 Western District of Washington,—ss.

I, F. M. Harshberger, Clerk of the United States

District Court for the Western District of Washington, do hereby certify this typewritten transcript of record, consisting of pages numbered from 1 to 26, inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the clerk of said District Court, and that the same constitute the record on appeal herein, from the judgment of said United States District Court for the Western District of Washington, to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses and costs incurred in my office on behalf of the appellant, for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit: [27]

Clerk's fees (Sec. 828 R. S. U. S.) for making record, certificate or return, 57 folios at 15¢	\$8.55
Certificate of clerk to transcript of record, 4 folios at 15¢60
Seal to said certificate20
Certificate of clerk to original exhibits, 2 folios at 15¢30
Seal to said certificate20

I hereby certify that the above cost for preparing and certifying record, amounting to \$9.85, will be included as constructive charges against the United

States in my quarterly account to the Government of fees and emoluments for the quarter ending December 31, 1924.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, at Seattle, in said district, this 11th day of October, 1924.

[Seal] F. M. HARSHBERGER,
Clerk United States District Court, Western District of Washington. [28]

United States District Court, Western District of Washington, Northern Division.

No. 8717.

In the Matter of the Petition of MON HIN for a Writ of Habeas Corpus.

CITATION.

The United States of America,—ss.

To Mon Hin, GREETING:

WHEREAS, Luther Weedin, United States Commissioner of Immigration at the port of Seattle, Washington, has lately appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment, order and decree lately on, to wit, the 15th day of September, 1924, rendered in the District Court of the United States for the Western District of Washington, made in favor of you, adjudging and decreeing that Mon Hin be discharged from the custody of said Luther

United States District Court for the Western District of Washington, Northern Division.

Filed October 14, 1924.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.